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January 20, 1999

VIA FACSIMILE AND REGULAR MAIL

Ms. Carmen Madrid, Supervisor
Docket Control Division
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

RE: Docket No. RE-00000C-94-0165

Dear Ms. Madrid:

Enclosed is PG&E Energy Services Corporation's Response to January 6, 1999 Procedural Order in the above matter. The original and ten (10) copies of this document are being mailed to your office today for filing.

Please advise our office if you have any questions regarding the enclosed.

Very truly yours,

Lawrence V. Robertson, Jr.

Enclosures (11)

cc: Jerry Rudibaugh, Hearing Division
Paul Bullis, Legal Division

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BEFORE THE ARIZONA CORPORATION COMMISSION

JIM IRVIN
COMMISSIONER - CHAIRMAN
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COMMISSIONER

IN THE MATTER OF COMPETITION IN THE) Docket No. RE-00000C-94-0165
PROVISION OF ELECTRIC SERVICES)
THROUGHOUT THE STATE OF ARIZONA.) COMMENTS OF PG&E ENERGY
SERVICES CORPORATION IN
* RESPONSE TO JANUARY 6, 1999
PROCEDURAL ORDER

Pursuant to the first ordering paragraph of the January 6, 1999 Procedural Order issued in the above-captioned proceeding, PG&E Energy Services Corporation ("Energy Services") hereby submits its comments on the four (4) issue areas set forth in the Procedural Order. [page 1, line 21 - page, line 2]

I.

ELECTRIC RESTRUCTURING ISSUES YET TO BE RESOLVED

A Threshold Overview:

The answer to this line of inquiry is in large measure dependent upon precisely what the Commission intended by its Decision No. 61311. More specifically, in "staying" the Retail Electric Competition Rules ("Rules"), as provided for in the Third Ordering Paragraph, did the Commission effectively intend to reopen for consideration all of its previous determinations on the content of the Rules and related matters.¹ Or, conversely, did it only intend to subject to reconsideration (and

¹ e.g. the calculation and recovery of stranded costs, as provided for in Decision No. 60977.

1 possible revision) those amendments to the Rules which were adopted on December 11, 1998 in
2 Decision No. 61272. The waivers from compliance provided for in the Second Ordering Paragraph
3 would suggest that the latter alternative reflects the Commission's intent; and hopefully that is the
4 case.

5
6 If so, then what has been "stayed" or temporarily suspended are (i) the competition rules
7 adopted in Decision No. 59943, (ii) the stranded cost calculation and recovery procedures adopted
8 in Decision No. 60977, in association with the competition rules, and (iii) the "emergency"
9 amendments adopted in Decision No. 61071. These may be said to be the "Rules" at this time, for
10 they are no longer subject to applications for rehearing and reconsideration.² The status of the
11 "permanent" amendments adopted by Decision No. 61272 is different because reconsideration of
12 the same has been granted in Decision NO. 61311. Thus, as a practical matter, they are not part of
13 the "Rules" at this time.

14
15 If, however, the Commission intended to reopen in effect all of its previous decisions relating
16 to electric restructuring, then the entire process is back to "square one" or "ground zero."³ Years of
17 effort, thousands of man-hours, and hundreds of thousands (if not millions) of dollars will have been
18 expended by the various participants in the process for naught, in terms of advancing the
19 introduction of retail electric competition into Arizona. The only conceivable beneficiaries under
20 this scenario would be Affected Utilities who have endeavored to delay competition thus far.

21
22
23 ²

24 However, absent prior action by the Commission permanently adopting the same, the "emergency"
25 amendments will cease to be effective on or about February 10, 1999.

26 ³

27 In this regard, the Staff's Comments submitted on February 15, 1999 contain an exhaustive listing
28 of the nature and number of issues that would require resolution in this event [Staff Comments, page
1, line 21 - page 4, line 11]

Significant Remaining Issues:

As previously noted, Energy Services hopes (and believes) the Commission did not intend to reopen all of its prior determinations through its issuance of Decision No. 61311. Assuming that to be the case, Energy Services believes that the most significant issues requiring resolution, in order that competition may begin and progress in the Affected Utilities' service areas,⁴ are as follows:

1. Stranded cost calculation and recovery determinations for each Affected Utility, beginning with interim determinations when appropriate.
2. Unbundled tariff determinations for each Affected Utility, beginning with interim determinations when appropriate.
3. A Commission determination on whether to adopt as "permanent" the amendments to the Rules which were the subject of Decision No. 61272; or, whether to consider further refinements to those areas of proposed change.
4. Decisions on proposed Service Acquisition Agreements between certificated Electric Service Providers and Utility Distribution Companies (and/or Affected Utilities), as they are submitted for Commission review and approval.
5. Decisions on proposed agreements between certificated Electric Service Providers and the Independent System Administrator, as they are submitted for Commission review and approval.

II.

ORDER OF RESOLUTION OF ISSUES

Assuming that the Commission intends to retain the provisions and results of (i) Decision No. 59943, (ii) Decision No. 60977, and (iii) Decision No. 61071, except as modified on rehearing

⁴

As noted in Energy Services' Application For Rehearing of Decision No. 61303, all that is required in order for Energy Services to commence competition in the Salt River Project's service area is a service acquisition agreement.

1 and reconsideration of Decision No. 61272, Energy Services believes that the aforementioned
2 significant issues should be addressed and resolved by the Commission in the following order:

- 3 1. Reconsideration and decision upon the "permanent"
4 amendments which were the subject of Decision No. 61272.
- 5 2. Contemporaneously, consideration of and decision upon the
6 stranded cost calculation and recovery proposals of Affected
7 Utilities, beginning with interim determinations when
8 appropriate.
- 9 3. Contemporaneously, consideration of and decision upon the
10 unbundled tariff proposals of Affected Utilities, beginning
11 with interim determinations when appropriate.
- 12 4. Decisions upon proposed Service Acquisition Agreements
13 between individual certificated Electric Service Providers and
14 Utility Distribution Companies (and/or Affected Utilities), as
15 they are submitted for Commission review and approval.
- 16 5. Decisions on proposed agreements between certificated
17 Electric Service Providers and the Independent System
18 Administrator, as they are submitted for Commission review
19 and approval.

20 The introduction of retail electric competition by a given certificated Electric Service
21 Provider within the service area of a given Affected Utility may on occasion require the
22 consideration and resolution of additional case-specific issues. However, those listed above are the
23 "core" issues which will need to be addressed in order for competition with Affected Utilities to
24 begin and progress.

25 III.

26 METHOD AND TIMING OF RESOLUTION

27 Assuming it is correct in its assumption that the Commission did not intend to unravel and
28 restart the transition process by its issuance of Decision No. 61311, Energy Services believes that

1 that process is substantially more advanced than some critics are willing to concede. As a
2 consequence, there is much that can be accomplished within the near future.

3 For example, with the exception of the amendments to the Rules proposed by the Staff on
4 November 24, 1998 which relate to matters not addressed in Decision No. 61071, there has been
5 ample opportunity for comment by participating parties and the general public. Thus, with the
6 allowance of an additional brief comment period limited to those new matters, and adequate time
7 for the Hearing Division to review and evaluate the same, this "issue" can be positioned for
8 consideration and decision by the Commission in the near future.
9

10 Similarly, the unbundled tariff and stranded cost calculation and recovery proposals
11 of the various Affected Utilities have been known for some time; and, in some instances, comments
12 and criticisms have been filed. Where necessary, these proposals can now be scheduled for hearing
13 and decision in a timely manner. In this regard, it should be noted that the prospect of settlement
14 discussion remains available as an option for moving these issues, on an individual Affected Utility
15 basis, forward to the point of decision by the Commission.
16

17 Finally, Energy Services believes that the review and approval of Service Acquisition
18 Agreements and agreements with the Independent System Administrator are, of necessity, best
19 addressed and resolved on the basis of the individual circumstances of the certificated Electric
20 Service Provider in question. As initial agreements are presented and approved, a pattern may begin
21 to emerge as to certain features which are central to each such agreement. But other aspects will be
22 tailored to address the specific situation(s). Thus, it is neither necessary nor appropriate to subject
23 the negotiation and presentation of these agreements to a general process or a central timetable.
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IV.

RUCO/ATTORNEY GENERAL PROPOSAL

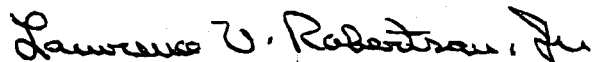
The preceding portions of these Comments comprise, in large measure, Energy Services' observations as they relate to matters addressed within the Joint Proposal submitted by RUCO and the Arizona Attorney General. However, two additional matters warrant comment.

First, with regard to Footnote 2 on page 3 of the Joint Proposal, and as noted above, the Commission should affirm that its "stay" of the Rules was not intended to reopen that which Decision Nos. 55943, 60977 and 61071 have already resolved. Rather, all that is subject to reconsideration are the amendments which were the subject of Decision No. 61272.

Second, with regard to Item No. 7 on page 4, it should be remembered that meaningful settlements will occur because the parties are so inclined, not because of a Commission directive.

Dated this 20th day of January, 1998.

Respectfully submitted,



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